

**Secretary Gary Locke**  
**Remarks to BIS Update Conference**  
**Tuesday, August 31, 2010**  
**Grand Hyatt, Washington D.C.**

**Introduction**

Hello everybody. Thank you, Eric for that generous introduction. And thank you for all the critical work the Bureau of Industry and Security is doing. BIS has a difficult job, and we are fortunate to have you as Under Secretary.

It's wonderful to see such a large turnout today to discuss a pivotal issue.

Export control reform is a key priority of the Obama administration. And to talk a bit about why, and how we're moving forward on this issue, we've got a video to show you.

As you heard from the president, how the U.S. moves forward on export control reform is going to significantly impact our national security as well as our economy.

We must have an export control system that can ensure both national security and economic prosperity.

**Current Export Controls are Outdated**

Yet, while we currently have one of the world's most stringent export control systems – it's not necessarily the world's most effective and efficient.

Our current export control system has its roots in the Cold War-era, when it was in every Western country's security and economic interest to keep dual-use and military technologies away from a well defined bloc of adversarial nations.

But we no longer live in that bi-polar world.

Today, we simultaneously face a growing array of threats, from chemical and nuclear weapons proliferators, to rogue regimes, to state sponsors of terrorism.

Meanwhile, our goods and technologies are incredibly sophisticated, and there are more consumers for them around the world than ever before.

Our export control regime has not kept pace with these changes.

For instance, our current system operates under two different control lists with distinctly different approaches to identifying and controlling products.

The Department of State administers the Munitions List, which includes items specifically designed for military applications and uses fairly broad and general terms.

And the Commerce Department administers the Commerce Control List, which is a far more specific list of mostly "dual use items" -- that is commercial items that could have military applications -- items like truck parts, electronic components and even computers.

And there are three different licensing agencies – each with different procedures and different information technology systems—and three different sets of regulatory definitions.

It would be hard for anyone to argue that this existing system is maximizing our national security.

And for American exporters, time they could be spending figuring out how to sell their products is instead spent navigating a confusing and time-consuming export control bureaucracy.

What's more, America is frequently putting our companies at a competitive disadvantage when we forbid them from selling an item to an overseas market even when that item is readily available world-wide.

Our global trading partners have unfortunately taken notice.

Let me read you a quote that I mentioned at last year's update conference that is troubling enough to bear repeating.

It's from Charles Edelstenne, the president of the Aerospace and Defense Industries Association of Europe. He said:

"The only way to resolve technology access and U.S. government export restrictions is by not including any U.S.-sourced technology in our products."

Now, this is a self-evidently bad thing for the US aerospace sector. But it's just as damaging to U.S. security.

And as the "Beyond Fortress America" report issued by the National Research Council and co-authored by Brent Scowcroft and John Hennessy, indicated:

"Many current controls aimed at protecting U.S. national security, in fact weaken U.S. innovation and competitiveness in global markets."

These are essential elements of our national security.

With increased sales, come greater opportunities and incentives for our companies to constantly innovate and refine the technologies that ultimately enhance and benefit U.S. national security.

These excessive controls are harmful because they dissipate our energies and effectiveness on those items so critical to national security

As the "Beyond Fortress America" report said, "today's system in fact, is arguably becoming more and more dangerous, because the inclination to equate controls with safety gives a false sense of security.

With the military becoming increasingly dependent on commercial-off-the-shelf dual-use technology, it is important to ensure that our licensing criteria are based on objective technical parameters that take into account the strategic nature of an item and whether or not the item is available from non-U.S. suppliers.

Consider the case of the two blocks on the screen before you.

These are nearly identical control arm pivot blocks for heavy vehicles. They help connect the axle to the vehicle frame. The only differences between them are that the holes are of minutely different sizes and that one is steel and the other aluminum.

They have no functional difference.

But, one of these items, the one made out of steel, can be exported almost anywhere without a license. It is for an ordinary fire truck.

The other, because it is "specifically modified", that is, it has minutely larger holes and is made out of aluminum, is designed for use in a military vehicle, and can get you 20 years in prison if you sell it abroad without a license.

## **Improvements to Our Export System**

There simply has to be a better way. And the Obama administration is working towards it.

Overhauling our export control framework will not happen overnight. Fundamental reform will require new statutory authority and new action by Congress.

But there is still a lot we can do now administratively.

When I spoke here last year, in this very room, some were overheard expressing skepticism that we are serious about reforming America's export control system. We are proving them wrong.

Thanks to the leadership of President Obama, and the hard work of his national security team: General Jim Jones, Secretary Clinton and Secretary Gates among others, we're making significant progress.

We are taking important steps towards streamlining and simplifying our export control system to make it more transparent, and to enable exporters to quickly know exactly what can and cannot be exported, and where products can and cannot go.

The first step to make this happen is to ensure that the Commerce and State Department control lists clearly lay out which products are controlled, and by which agency.

To do this, we are working to make both the Commerce Control List and the Munitions List "positive lists." What this means is that we'll have two lists that classify and control items based upon specific characteristics, such as by size or by wavelength, or by the ability to operate under extreme atmospheric conditions.

And, when this process is done – creating a "bright line" between the two lists – exporters will be able to know which agency has jurisdiction over their products.

An additional step will be to divide each control list into a three-tiered structure.

Think of the tiers as shelves in a cabinet:

- The top tier – or the highest shelf – will be reserved for our most sensitive items, ones made in the U.S. which have high value military or intelligence capabilities;

- The middle tier – or a more accessible shelf – will hold somewhat less sensitive items, and will be products that are available almost exclusively from our multilateral partners and allies;

- The lowest tier will be reserved for items that are less sensitive, and which are more broadly available.

Once all of the items are placed into a tier, a corresponding licensing policy will be assigned to ensure appropriate agency review.

- For the top tier, a license will generally be required for all destinations;

- Many of the items in the middle tier will be eligible to be exported to allies and most multilateral partners under a license exception or general authorization;

- And for items placed in the lowest tier, licenses will typically not be required.

Of course we will continue to maintain robust and comprehensive sanctions against countries like Iran, North Korea and Cuba.

In the final stage of export reform, we plan to merge the two lists into one – and we will continue to work with our colleagues on Capitol Hill to try to make this happen.

But the restructuring and harmonization of control lists and licensing policy that is already under way will be groundbreaking.

And preliminarily, this process is showing impressive results.

Experts from across the government have already turned Category VII of the State Department's Munitions List, which controls Tanks and Military Vehicles, into a positive, tiered list.

And what we've found so far is that about 74 percent of the licensing activity is for parts and components – items like brake pads and the pivot blocks you saw a few minutes ago– which, going forward, will likely be moved to the Commerce Control List or decontrolled.

The pivot blocks, in fact, illustrate one of the significant inefficiencies and incongruities of our current system.

Pivot blocks for Marine all-terrain vehicles require export licenses from the State Department.

But nearly identical pivot blocks for fire trucks can be exported nearly anywhere in the world without a license.

And yet, under our current system, we devote the same licensing resources to protecting pivot blocks for Marine all terrain vehicles as we do to protect the vehicles themselves.

This simply does not make sense.

A reformed export control system will allow us to focus on the high-risk dual-use technologies that pose the greatest risk to our national security, while permitting greater exports of items that pose little or no risk.

One of the first results of the reform effort is the encryption rule that Commerce published in June. It will provide useful data to the Government about exports of encryption items while creating for exporters a more efficient and timely process for reviewing notifications.

## **Conclusion**

Finally, we have just heard the President announce that he intends to sign an Executive Order to create an export enforcement coordination center.

Export enforcement will continue to be a crucial part of our export control system. And by reforming how we license dual-use products and technologies, we will free up our export enforcement agents to focus on interdicting those exports that pose the greatest potential risk to our national security.

In the past year, BIS special agents investigated and helped in the criminal prosecution of an Iranian front company that was shipping U.S.-made 747s to Iran. And special agents also broke up an illegal transshipment ring in the Netherlands that was exporting American airplane parts to end-users in Iran.

With a more efficient and rational export control system, we can free up more of our enforcement and licensing teams to focus their resources on these real threats.

Going forward, our export control regime must be nuanced enough to allow our companies to remain competitive throughout the world, but most importantly, strong and robust enough to keep America safe.

This is a process on which I look forward to working with all of you.  
Thank you.

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